

**VOTING BY MAIL: AN EXAMINATION OF
STATE AND LOCAL EXPERIENCES**

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WEDNESDAY, MAY 5, 2010

United States Senate,
Committee on Rules and Administration,
Washington, D.C.

The committee met, pursuant to notice, at 10:06 a.m., in Room SR-301, Russell

Senate Office Building, Hon. Charles E. Schumer, Chairman of the committee, presiding.

Present: Senators Schumer and Roberts.

Staff Present: Jean Bordewich, Staff Director; Jason Abel, Chief Counsel;

Veronica Gillespie, Elections Counsel; Adam Ambrogi, Counsel; Sonia Gill, Counsel; Julia

Richardson, Counsel; Lauryn Bruck, Professional Staff; Lynden Armstrong, Chief Clerk;

Matthew McGowan, Professional Staff; Mary Jones, Republican Staff Director; Paul

Vinovich, Republican Chief Counsel; Michael Merrell, Republican Counsel; Rachel

Creviston, Republican Professional Staff; and Justin Lee, Republican Intern.

OPENING STATEMENT OF CHAIRMAN SCHUMER

Chairman Schumer. The Rules Committee will come to order. Good morning.

First, I want to thank my friend, Senator Roberts, for joining us this morning. Ranking

Member Bennett is unable to attend. I would also like to welcome Senator Ron Wyden

of Oregon and Congresswoman Susan Davis of California, two very strong advocates of

voting by mail.

27 Now, I have had a lot of opportunity to work with Senator Wyden on many,
28 many occasions, most recently on the DISCLOSE Act, where a major portion of our bill
29 comes from provisions that he and Senator Collins put together originally. I can say
30 that there is no truer champion of reform than Senator Wyden. He is a great
31 champion for all Oregon constituents and Oregon is always first on his mind when he is
32 legislating.

33 In this case, I can tell the public here that I, probably a minimum of 25 times,
34 have heard Ron Wyden talk to the Democratic Caucus about why voting by mail is a
35 great thing and how well it works in Oregon, as recently as our last Tuesday lunch, not
36 about this hearing, but it came up. So we are honored to have him here today and
37 look forward to his insight, experience, firsthand knowledge of election law issues.

38 I also want to thank Congresswoman Davis, who has also called me on this issue
39 on several occasions and is as strong an advocate in the House as Senator Wyden is in
40 the Senate.

41 So we are going to examine vote by mail systems and programs used by States
42 for Federal elections. Vote by mail is no longer a rare exception. Today, many voters
43 throughout the country exercise their constitutional right to vote by mailing in their
44 ballot, and the most well known vote by mail State is Oregon, which is the only State
45 that conducts all elections entirely through its vote by mail system. It is amazing, and I
46 followed it a little bit myself.

47 Washington State is a close second. It conducts elections in 38 of 39 counties

48 by mail. I don't know if one of our witnesses can tell us why one county isn't involved.
49 Maybe they don't have the Post Office serving them.

50 Meanwhile, Colorado voters cast ballots by mail at a 64 percent rate. And in
51 our largest State, California, voters went 44 percent by mail in the 2008 Federal
52 elections. Some of those States are represented by members on this committee,
53 Senator Feinstein and Senator Murray.

54 But what do we actually mean when we talk about vote by mail? There are two
55 different ideas and we are going to discuss them today.

56 First is what many call, appropriately, the Oregon model. In this model, a State
57 does not have polling places and its election is conducted solely by mail. The second is
58 what is called the "no excuse absentee balloting," or universal vote by mail. In this
59 system, polling places still exist as much as they do in other States, but voters can
60 choose to vote absentee and by mail without any reason whatsoever.

61 I am happy that my own State of New York just decided to adopt the second
62 model--not that I prefer it over the first, but at least it is better than nothing--of no
63 excuse absentee balloting. We joined 29 other States that offer no excuse absentee
64 balloting and four States that provide permanent no excuse absentee balloting.

65 Finally today, we will discuss how to give voters the tools to track their ballots
66 once sent. If people can track a package when it arrives, surely the technology is there
67 to track a ballot.

68 It is an issue that we have had some experience, successful experience, in this

69 committee. Working with Senators Bennett, Chambliss, Nelson, and others, we passed
70 the Military and Overseas Voter Empowerment Act, known as the MOVE Act, as part of
71 the National Defense Authorization last year. It ensures that all States permit military
72 and overseas citizens and their dependents to register and vote by absentee.

73 One of the most important aspects of that law, which passed with
74 Congresswoman Davis's strong support in the House, is that it requires election
75 jurisdictions to provide to all military and overseas voters free access to notification that
76 their voted ballots have been received by the local Board of Elections.

77 Congresswoman Davis has her own bill, which passed the House on the Suspension
78 Calendar, H.R. 2510, which is aimed at providing that same free access notification to all
79 absentee voters in the country. I look forward to learning more about this particular
80 proposal, as well.

81 I believe these reforms to be sensible, secure, and the right thing to provide
82 voters. Vote by mail elections will help all eligible voters to register and vote in Federal
83 elections, including disabled voters and their caretakers, Americans holding down two
84 jobs who can't get away to vote, and just about anyone who can't get to the polls but
85 wants to exercise their prized constitutional right.

86 So after we hear from our two Members of Congress, we are going to be lucky to
87 hear from State and local election officials who can relate their experiences with these
88 programs. They have been on the ground in the areas of policy, law, legislation, and
89 implementation of vote by mail programs. We can all benefit from their experience.

90 Senator Roberts?

91 OPENING STATEMENT OF SENATOR ROBERTS

92 Senator Roberts. Well, thank you, Mr. Chairman. It is a privilege to be here to
93 pinch hit or stand in for Bob Bennett.

94 I might observe that in a unique test of observation by the media on Capitol Hill,
95 many times, we have been mistaken for one another. This is somewhat unique in that
96 Bob is six inches taller than I am and he, when a member or the Chairman of the Joint
97 Commission on Economics and I was the Intelligence Committee Chairman, were being
98 asked by media, Mr. Chairman, all the time different questions, they would ask me
99 about the Fed and about the interest rate and about the economy, and I would say,
100 well, we are going to take that up very quickly and if you will just get back to me, I can
101 have something for you later. And Bob, when asked about an intelligence matter,
102 would simply smile and say, "Well, you know I can't say anything about that."

103 And so we have become sort of a, what, band of brothers in regards to the
104 media, I guess, inquiries. That still has puzzled me, other than the fact that I think we
105 both belong to the follicly challenged caucus. Perhaps that is the reason that one is
106 mistaken for the other.

107 It is a pleasure to be here with you. I have known the Chairman. We served
108 together in the House and now serve in the Senate. The Chairman is known for his
109 legislative prowess and his political acumen. I simply want to thank him for getting
110 who I was in 2008 and I appreciate that very much.

111 So at any rate, with Ron Wyden, Ron comes from Wichita, along with some other
112 very famous person that we know at 1600 Pennsylvania Avenue, and so I have known
113 him for a long time and he serves on the Intelligence Committee. I think you are still
114 serving there. And I appreciate his efforts. If there is one person who does reach out
115 and tries to be bipartisan in regards to the challenges that we must face, it is Ron. And
116 so, Ron, I really appreciate your friendship and your service.

117 And Susan is a member of the sometimes powerful House Administration
118 Committee, of which I was a member many, many years in the House--

119 Chairman Schumer. It was always powerful when you were on it, Senator
120 Roberts.

121 Senator Roberts. It was always very chaotic and very controversial, but at least
122 I think we got some things done, so thank you to the members. I am looking forward
123 to the panel.

124 The Constitution under Article I, Section 4, states the time, places, and manner
125 of holding elections for Senators and Representatives shall be prescribed in each State
126 by the legislature thereof. Although the Constitution does permit Congress to make
127 laws that affect elections, it is clear that the Founders intended for the responsibility
128 and administration of elections to remain within the States and accountable directly to
129 their voters.

130 Since 1995, my State of Kansas has permitted advance so-called no excuse
131 balloting for Kansans who fill out the appropriate application and meet the statutory

132 requirements. There are some county--there is county flexibility due to cost and
133 access and things of that nature, however. They may vote prior to Election Day either
134 by mail or in person at a location approved by their County Election Office.

135 Now, 27 other States have various forms of advance balloting, but it is important
136 to remember that 22 don't. These States have chosen probably for different reasons, I
137 suspect cost and other matters, not to initiate advance balloting. That choice must be
138 respected, I think, by the Federal Government as well as by other States.

139 And I understand that some advocate extending advance balloting to States that
140 have not adopted advance balloting. Others highlight concerns that doing so opens
141 the door to abuses such as fraud. For example, in Essex County, New Jersey--where
142 else--there is an ongoing investigation of fraudulent absentee ballots in the 2007 Senate
143 race and this is not the only example. We could go on and on.

144 Worse yet, we must consider the possibility of coercion. The concept of the
145 secret ballot is one of the cornerstones of democracy and we must exercise extreme
146 caution with any form of legislation that could potentially or inadvertently undermine
147 the secret ballot and open the door to intimidation of individuals when voting on
148 candidates or questions before them on Election Day.

149 I thank the Chairman again for calling this hearing. I look forward to the
150 witnesses' testimony. Thank you very much, Mr. Chairman.

151 Chairman Schumer. Thank you, Senator Roberts.

152 And now we will hear from Senator Wyden.

153

154 STATEMENT OF HON. RON WYDEN, A UNITED STATES SENATOR FROM THE STATE OF

155

OREGON

156

157 Senator Wyden. Thank you very much, Mr. Chairman. With your leave, let
158 me just spare you the speechifying and maybe just highlight a few of my main concerns.

158

159 I don't want to make this a bouquet-tossing contest, but I also especially
160 appreciate the way you, Mr. Chairman, and Senator Roberts and Senator Bennett tackle
161 these issues in a bipartisan way. I think both of my colleagues know that Senator
162 Grassley and I, for example, have spent a full decade trying to eliminate secret holds
163 here in the United States Senate, another effort to open up the political process to make
164 Government more accountable.

164

165 Senator Schumer, when I talked to him about this a decade ago, the very first
166 question Senator Schumer asked me was, are you doing this in a bipartisan way, so
167 Chairman Schumer, I am very appreciative of the fact that you have put a special focus
168 on these issues that are so important to democracy to work in a bipartisan fashion, and
169 it is obvious you are doing that again.

169

170 And to my friend, Senator Roberts, my former Chairman on the Intelligence
171 Committee, we have worked together often on so many issues, and to work with you
172 and Senator Bennett, and he, of course, has been my partner on a number of economic
173 issues, health, and others, this is exactly what we need more of in the United States
Senate, and so I very much appreciate the way you all are tackling these issues.

174 I am the first United States Senator to have been elected by mail. Suffice it to
175 say, when you look at the 30-year history of what Oregon has done, what you see is that
176 this empowers voters. They have almost three weeks to have a ballot in their hand to
177 get more informed on the issues. It has increased turnout. It is cost effective. And
178 on the central issue that colleagues have asked me about as they have looked at it, I am
179 of the view that it reduces election fraud, and let me cut to the bottom line on this
180 issue.

181 We know that elections are contentious matters. People have passionate
182 differences of opinion. The first point on this issue, in the history of our using vote by
183 mail, and it goes back almost 30 years, and I mentioned this to my friend, Senator
184 Roberts, not once has a Democratic candidate or a Republican candidate said that they
185 lost their election by voter fraud using vote by mail. There has not been one instance
186 of that.

187 And in fact, to highlight how strongly we feel that this is bipartisan, at one point,
188 I was one of a handful of Democrats who were for this idea. Republicans at that time
189 thought it would favor them because they thought that their constituency would be
190 more interested in this. Then the roles were reversed and now Oregonians have put it
191 on the ballot because overwhelmingly this is a bipartisan approach.

192 One of the reasons that it has not been something susceptible to fraud is the
193 extensive checks that we have put in this, and our very fine Secretary of State will touch
194 on this in a few moments. First, we require that people sign the ballot. Then we

195 verify the signatures. And because you have close to a three-week process, you have
196 plenty of time to see if a signature is verified. And we have very substantial
197 penalties--it is a felony if you sign somebody else's name to the ballot.

198 And Mr. Chairman, with your leave, I would like to put into the record an
199 instance in Curry County where an elected official whose wife had back surgery and
200 asked her husband to sign the ballot, he did it, they picked it up on verification and he
201 went to jail for his conduct. So we have very substantial--

202 Chairman Schumer. You are a tough folk in Oregon.

203 Senator Wyden. We are tough folks, but we are very serious.

204 Chairman Schumer. Without objection, that will go in the record.

205 [The information of Senator Wyden submitted for the record:]

206 Senator Wyden. We are very serious, and I just want my colleagues to know
207 that we don't take a back seat to anybody on this question of ballot integrity. So we
208 have 15 million ballots that have been cast by mail since we have used it and absolutely
209 no evidence of systematic voter fraud, and our excellent Secretary of State will get into
210 this in just a moment.

211 Finally, Mr. Chairman, the package of bills that I have introduced includes a
212 universal right to vote. We consider that fundamentally about access and fairness.
213 No longer would there be arbitrary requirements that block voters from choosing to
214 vote by mail. I want it understood that this wouldn't force anyone to vote by mail, nor
215 does it require States to implement new voting systems. It, again, increases voter

216 choice and voter options.

217 Also, S. 3299 would eliminate arbitrary barriers that may prevent voters from
218 exercising their rights in States that still have excuse requirements, and I note that the
219 State I was born in, the State that Senator Roberts represents, was the first State to
220 eliminate absentee ballot restrictions.

221 Then I have also introduced S. 3300, the Vote by Mail Act of 2010, that would
222 create a model grant program to help States or smaller jurisdictions transition to vote by
223 mail systems. And one of the reasons why I think, colleagues, we also ought to look at
224 these small grant programs is it seems that every four years, when we have jurisdictions
225 around the country having substantial problems in protecting the franchise and
226 empowering the voters, we end up spending more Federal money on broken systems.
227 So it would make more sense, it seems to me, to pick up on a model that has strong
228 bipartisan support, that has worked, that is cost effective, that is efficient, that has not
229 in any way promoted fraud, and quite the opposite, has sanctioned any instances of
230 tampering with a ballot aggressively. I think it would be in the country's interest to
231 follow the Oregon model.

232 I will plead guilty, colleagues, to being proud of my State. I think good
233 government is in the Oregon chromosomes. It is how we participate so extensively in
234 government. It is why people show up at my town hall meets in every county, every
235 year. This is another way to open up the doors of democracy and to do it in a
236 bipartisan way.

237 So I thank colleagues for the chance to come, to you, Chairman Schumer, for
238 particularly showing that you can be passionate about issues like this and do it in a
239 bipartisan way.

240 [The prepared statement of Senator Wyden inserted into the record]

241 Chairman Schumer. Thank you, Senator Wyden, and we thank you for your
242 leadership on this issue.

243 Congresswoman Davis?

244

245 STATEMENT OF HON. SUSAN DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE

246 OF CALIFORNIA

247 Ms. Davis. Thank you very much. Chairman Schumer and Senator Roberts, it
248 is an honor to be here and to be here with Senator Wyden, a true leader on mail ballot
249 issues, to testify about the rising use of absentee voting and improving the process. I
250 will be as brief as I can to allow for your panel of experts, because truly, these are
251 election officials whose experience offers us the greatest value.

252 My interest in bettering our elections goes back to my service as President of the
253 League of Women Voters of San Diego. Historically, the Federal Government has
254 opened the doors to those who have been shut out of the voting process, whether
255 intentionally or unintentionally, and each time those doors open wider, our country has
256 been the better for it.

257 But our work is not done. The next step is to give hard-working Americans with

258 busy lives the best chance to vote no matter what comes up on Election Day. I vote at
259 polls whenever I can because I really want to. Many Americans feel the same, and I am
260 not proposing that we take away that option. But we shouldn't consider a person any
261 less patriotic for wanting to do his or her civic duty at the kitchen table.

262 The reality today is that ever-increasing numbers of voters choose to vote by
263 mail because people pursuing the American dream are getting up earlier, commuting
264 longer distances in more traffic, and they savor precious family time. They want to
265 participate in democracy, but are uncertain whether they will make it to the polls
266 between their work and family obligations.

267 These ballots today are longer and they are often filled with complex initiatives
268 and some voters don't like to feel rushed at the polls. An absentee voter can choose
269 whether to turn a ballot in right away or wait to hear everything the campaigns have to
270 say.

271 Some say early in-person voting is an alternative to voting by mail. While I fully
272 support this opportunity, I would disagree with that. Like Election Day, early voting
273 still involves lines and limited hours and administrative burdens. Mail simply has a
274 broader reach.

275 In California, we have no excuse absentee voting, meaning that anyone can vote
276 by mail for any reason. I took the right to vote by absentee for granted until 2004,
277 when a nurse from an excuse State told me she could not vote for President because
278 her shift overlapping with polling hours and work wasn't an acceptable excuse for an

279 absentee ballot. Since she would not abandon her patients, well, she did not vote.

280 Her story compelled me to take action.

281 The fact that some 21 States still require excuses to vote by mail is a problem on
282 three levels. First, voters in excuse States simply do not have as great an opportunity
283 to vote as their counterparts in no excuse States. This creates an unequal playing field
284 when we are all voting for the same President and the same Congress.

285 Second, the excuse requirements are arbitrary impediments and they do not
286 increase security. For example, in Michigan, you can vote absentee if you are over 60.
287 In Mississippi, you have to be over 65. And in Georgia, you have to be over 75. In
288 Delaware, you need to collect and pay for a notary signature to prove that you are on
289 vacation or that you are a student. In Tennessee, sick voters need a note directly from
290 their doctor to the county clerk. Even work doesn't count as a valid excuse in many
291 States, and in some, only certain kinds of work do.

292 And no State has a special exemption for parents of young children. I am all for
293 setting an example by taking kids to the polls when they can, but any parent knows it is
294 not always practical to stand in line with a couple of toddlers and then try to
295 concentrate on a long ballot.

296 And the third reason absentee excuses are a problem is they can violate our
297 privacy for no good reason. Some people say a voter's privacy is at risk voting from
298 home. There is not much evidence of that, however, and most people talk politics with
299 their family anyhow. What is clear is the threat to privacy States pose when they

300 request unnecessary information just to vote.

301 For example, in Virginia, you must state where you will be vacationing to get an
302 absentee ballot. If you have a religious obligation, you have to explain that. If you
303 are sick, you must list the nature of your disability or illness. If you are caring for
304 someone else, you have to list that person's illness. And my favorite one, if you are
305 pregnant, you must disclose that to the State. All of this information becomes public
306 record and it is never verified to prevent fraud. But if you forget to fill out any part of
307 it, sorry, you can't vote.

308 The good news is, we can fix all of these problems by passing the Universal Right
309 to Vote by Mail Act. This bill merely expands a process every State already has and it
310 clearly falls under Congress's constitutional authority to regulate the place, time, and
311 manner of Federal elections.

312 In addition, the Congressional Budget Office scores it at zero and finds it is not an
313 unfunded mandate because it is a civil rights bill.

314 So before I close, I just want to urge the committee to consider one more bill, as
315 well, H.R. 2510, the Track Act, a bill we recently passed in the House and is awaiting
316 action here in the Senate. This bill, which I co-authored with Kevin McCarthy, also on
317 the Administration Committee, is modeled on a successful law in California and would
318 expand on the tracking language in the MOVE bill. You are familiar with that. It
319 would provide State grants to set up absentee ballot tracking systems so voters can
320 know whether their absentee ballot has been sent, received by the Elections Office, and

321 has been counted, all three of those steps, which are very important.

322 I strongly believe this Congress must expand and improve absentee voting for all
323 eligible voters and extend a bedrock promise of our democracy, a vote for every citizen.

324 I want to thank you very much, Mr. Chairman, for holding this hearing. I want
325 to thank you for your help and support. And I certainly want to thank your staff, as
326 well, that were tremendously helpful to us.

327 I seek permission to submit for the hearing record a letter from the Michigan
328 Association of County Clerks.

329 Chairman Schumer. Without objection.

330 [The information of Ms. Davis submitted for the record:]

331 Ms. Davis. Thank you very much.

332 [The prepared statement of Ms. Davis submitted for the record:]

333 Chairman Schumer. One quick question for Senator Wyden. When did
334 Oregon implement its universal by mail voting, and how was the education and
335 transition process? I am sure people would want to know that.

336 Senator Roberts. Wasn't that with Lewis and Clark when they--

337 [Laughter.]

338 Senator Roberts. Lewis was for it and Clark was against it, as I recall.

339 Senator Wyden. And then when they saw how well it worked, they both came
340 on board.

341 Senator Roberts. I see.

342 Senator Wyden. Mr. Chairman, I would also like to submit for the record, we
343 have put together--our State officials put together a history of vote by mail.

344 [The information of Senator Wyden submitted for the record]

345 Chairman Schumer. Oh, good.

346 Senator Wyden. But essentially, there is a 30-year chronology dating back from
347 1981, where we started testing vote by mail for local elections, the chronology. We
348 made vote by mail permanent in 1987. The majority of counties began to use it for
349 local elections, as I noted. We held the Statewide special election in 1995 and 1996.
350 In January of 1996, when I was chosen Oregon's first new United States Senator in
351 almost 30 years, we had 66 percent turnout, Mr. Chairman.

352 Chairman Schumer. Wow.

353 Senator Wyden. This was in the dead of winter. It was unbelievably cold.
354 And colleagues, I don't remember it--

355 Chairman Schumer. That was because of the quality of the candidate.

356 Senator Wyden. Well, as all of us know, Senator Smith was an extraordinary
357 elected official, as well, and he and I worked very closely together. But I note that at
358 that time, when 66 percent turned out, people compared it to the previous Senate
359 special election. We had one, which I believe was in Texas, that had turnout
360 somewhere in the 20 percent range. So you get a sense of what the extraordinary
361 effect this has had in terms of increasing voter turnout. Make this chronology a part of
362 the record--

363 Chairman Schumer. Without objection.

364 Senator Wyden. --but we have a 30-year successful history, and that is why I
365 feel comfortable about coming before you and arguing that it ought to be expanded, is
366 we have had a chance to work through the kinks.

367 Particularly just one last point, Mr. Chairman. You have been very gracious on
368 time. When you look at this fraud issue, if a ballot is fraudulent, under the Oregon
369 system, it never gets counted because we have used that three-week period to
370 essentially check the envelopes, identify the problems, fix the errors, investigate any
371 questionable ballots, as opposed to what happens when you have the traditional
372 process of the polling place. The vote has already been counted and then you are
373 playing catch-up ball to deal with retrieval issues as opposed to what we think has been
374 successful in terms of getting at these questionable activities up front.

375 Chairman Schumer. And to Congresswoman Davis, California's rate of vote by
376 mail is extraordinarily high, 44 percent. Why do you think that is, compared to, say,
377 other States that have the same law, basically the same law in effect?

378 Ms. Davis. Well, one thing, they have made it permanent voting so that people
379 don't have to actually request an absentee ballot every time there is an election. They
380 can--that is basically a permanent absentee voter and I think that makes a large
381 difference, and people have found that it works for them.

382 Chairman Schumer. Senator Roberts? Thank you both.

383 Senator Roberts. With a highly mobile society, more especially with California,

384 how does that work? It is a permanent situation by address, I am assuming.

385 Ms. Davis. Yes. If people move, then of course they have to re-register at that
386 address.

387 Senator Roberts. Sure. But I would guess, what, 20 percent at least in
388 California--

389 Ms. Davis. Are moving around?

390 Chairman Schumer. Are moving to Kansas.

391 [Laughter.]

392 Senator Roberts. I don't think so.

393 Ms. Davis. A lot of them do move within the State, but even if they move down
394 the street--

395 Senator Roberts. We have very strict immigration laws.

396 [Laughter.]

397 Ms. Davis. But the other thing that has been mentioned is the signature is
398 really the key in California, as well. I have been at the registrar when they are checking
399 all of that and they do. They go through every signature--

400 Senator Roberts. I don't think there is a better salesperson for this than you
401 have represented yourself before the committee. If you have been talking to your
402 colleagues in regards to the 22 States that do not have this, it would seem to me you
403 have a very convincing argument.

404 I think I can say the same thing about Kansas. I am not too eager to

405 superimpose by federal fiat upon the 22 who do not. You may think they live in the
406 Dark Ages or whatever it is that one may think, but being the sales person that you are,
407 of course, you have other duties to perform. Have you talked to some of your
408 colleagues in some of the States that you were talking about in regards to the need for
409 voting by mail?

410 Ms. Davis. I certainly have, and you are absolutely right that people believe
411 that this is in the venue of the State. I think what we have to point out to them is that,
412 actually, traditionally, while the States have run elections, no court has really said that
413 the Tenth Amendment trumps Article I, Section 4, which basically says that the Congress
414 can determine the place and time. We have HAVA. We have Motor Voter. We
415 have done a number of things to try and provide some standardization.

416 So I have given them those arguments and I think that they do tend to fall back
417 on the State argument. But when they have an opportunity to talk to their registrars
418 and their county people, I think that they come around often with the feeling that this
419 doesn't make sense anymore. It may have at one time.

420 Senator Roberts. I am a veteran of the Motor Voter meaningful dialogue that
421 we had in the House Administration Committee and had three amendments. One, you
422 had to be a citizen; two, that it was an unfunded mandate and we should pay for it; and
423 then, third--oh, what the heck was the third one? But at any rate, another common
424 sense amendment. They all went down by a party line vote.

425 I am trying to think of the Washington Representative that was such a leader in
426 that--Congressman Swift, Al Swift. And then ten years later, I went back over all of the
427 evidence that he indicated State by State in terms of what he thought would represent
428 an increased voter turnout. As it turned out, it didn't affect it much one way or the
429 other. What affected it was the candidates and the timing and everything that
430 involves a political year. So I still have some reservations about that. But at any
431 rate--

432 Ms. Davis. I think one of the things you might look at is for all of those States
433 that have made this decision and moved forward, none of them have changed and gone
434 back.

435 Senator Roberts. I understand that. It would be very difficult to do that under
436 the circumstances. I think, politically--the third one was, by the way, if the State had a

437 more strict law enforcement requirement than the bill actually provided, that that
438 would prevail. And it seemed to me those three things were very reasonable.

439 Mr. Chairman, I did not mean to get into a renewed debate on Motor Voter, but
440 anyway, that struck a chord. Thank you very much.

441 Ms. Davis. Thank you.

442 Chairman Schumer. I thank both of our witnesses for being here.

443 Senator Wyden. Thank you.

444 Chairman Schumer. And now we will call the next panel to come forward, who
445 are Kate Brown, the Secretary
446 of State of Oregon, recommended by Senator Wyden, John Fortier from the AEI, and
447 Rokey Suleman, who is from the Board of Elections in the District of Columbia. I will
448 read a brief biography of each and then we will ask each witness to submit their entire
449 statement to the record and speak for five minutes.

450 Ms. Kate Brown currently serves as the Secretary of State of Oregon, a position
451 she has held since 2008. She was elected to Oregon's House of Representatives in
452 1991, served there until 1997 when she was elected to the Oregon Senate in 2004.
453 She became the first woman elected Majority Leader in the Oregon Senate, served there
454 for five years, earned her law degree from Northwestern School of Law at Lewis and
455 Clark College in Portland, Oregon. Welcome. And one of your Statewide colleagues,
456 John Kroger, worked for me for a number of years.

457 John C. Fortier is a research fellow at the American Enterprise Institute as the

458 principal contributor to the election reform project done in conjunction with the
459 Brookings Institute, a member of the Committee to Modernize Voter Registration, and
460 the author of Absentee and Early Voting: Trends, Promises, and Perils. He taught
461 political science at the University of Pennsylvania, University of Delaware, Boston
462 College, and Harvard. He earned his undergraduate degree from Georgetown, Ph.D.
463 from Boston College.

464 And Mr. Rokey Suleman currently serves as the Executive Director for the Board
465 of Elections and Ethics in the District of Columbia, where he is responsible for the
466 maintenance of voter records and election preparation. Before joining the D.C. Board,
467 he served in Fairfax County, Virginia, as the General Registrar in the Office of Elections,
468 as well as in Warren, Ohio, as the Deputy Director of the Trumbull County Board of
469 Elections.

470 You are all welcome. Secretary Brown, your entire statement is read in the
471 record and you may begin.

472

473 STATEMENT OF KATE BROWN, OREGON SECRETARY OF STATE, SALEM, OREGON

474 Ms. Brown. Thank you, Mr. Chair and committee members. For the record, I
475 am Kate Brown, Oregon's Secretary of State, and thank you for inviting me here to
476 testify today. I really appreciate both Senator Wyden and Congresswoman Davis's
477 leadership in attempting to provide Americans with universal access to vote by mail.

478 You have my written testimony in front of you. I would like to highlight a few

479 of those points.

480 Oregon's 30-year experience with vote by mail has been a resounding success.

481 Vote by mail enhances turnout, is cost effective, and secures the integrity of the ballot.

482 We know that Oregonians like vote by mail because we can measure the effects it has

483 had on turnout over the past few election cycles. Oregon has been in the top ten of

484 States in voter turnout amongst registered voters for the last two Presidential elections.

485 It is the only State in the top ten that does not have same-day voter registration,

486 another subject for another day.

487 It is easy to understand why. With vote by mail, we make it easier, more

488 accessible, and more convenient for Oregonians to cast an informed ballot. It is easier

489 for folks living in rural Oregon, miles away from the Elections Office, to drop their ballot

490 in a mailbox. It is accessible for people with disabilities to vote independently in the

491 privacy of their own homes. And it is convenient for busy families, as Congresswoman

492 Davis mentioned.

493 Vote by mail is cost effective. The last general election at a polling place was in

494 1998. It cost \$1.81 per voter. Our special election in January of 2010 cost \$1.05 per

495 voter, not including inflation.

496 We continue to add efficiencies, as well. Last legislative session, we passed a

497 bill which allows counties to process the ballots before Election Day. As you all know,

498 voters and elected officials want results immediately in this day and age, and in our last

499 Statewide election, we released more than three-quarters of the results within

500 half-an-hour of the voting deadline.

501 In addition, as Senator Wyden mentioned, vote by mail is secure. To combat
502 any attempts at fraud, we have put a number of security measures in place to make
503 vote by mail as secure as traditional polling place systems. For example, to ensure the
504 integrity of each ballot, we check every single signature, and I know this because it
505 happened to me. One election, I got a call saying my signature didn't match my
506 signature on the voter registration card and would I come down to the Elections Office
507 to verify my ballot. Of course, I did.

508 We are also using tracking measures by including a bar code on every single
509 envelope so we can track a given ballot while it is in the custody of Elections. And by
510 November of 2010, voters will be able to track their ballots and confirm that they have
511 been received by elections officials, just like we can track our purchases on eBay.

512 As Senator Wyden mentioned, the penalties for voter fraud are severe. I have
513 another case in Josephine County where a man forged the name of his younger brother
514 to register to vote. His younger brother was a citizen. We caught him. He was
515 discovered when his brother was summoned for jury duty and the county learned that
516 his brother was only 14 years old. He was convicted of four felonies and deported, and
517 now he can never become a citizen of the United States.

518 Finally, given the length of time of the election, as Senator Wyden mentioned,
519 with the ballots going out about 18 days ahead of time, county clerks and elections
520 officials have ample opportunity to resolve unanticipated problems.

521 It has truly been a collaborative process and we work closely with our partners at
522 the United States Postal Service.

523 Senator Schumer, I would let you know that Secretary Reed has a letter detailing
524 the experience in the State of Washington and he can tell you why Pierce County is not
525 all vote by mail. But I believe it is the only county in Washington that doesn't have
526 vote by mail.

527 In sum, we are really proud of our system in Oregon and we are very encouraged
528 by the willingness of Congress and this committee to discuss its merits. However, as
529 excited as I am about the prospect of vote by mail going national, I know that I have to
530 temper my excitement in light of the long path we took to fully implement the system,
531 and that was a full 30 years.

532 Senator Wyden's approach is creative and a common sense way to give all voters
533 across the country access to the convenience of voting by mail in a very "take it easy"
534 approach.

535 I would like to thank the members of the committee for having me here today.
536 I heartily encourage you to support the three bills that the good Senator Wyden has
537 introduced. And if Oregon's experience is any indication, universal access to vote by
538 mail has the potential to affect our country's elections for the better. Thank you.

539 [The prepared statement of Ms. Brown follows:]

540 Chairman Schumer. Thank you, Secretary Brown.

541 Mr. Fortier?

542

543

STATEMENT OF JOHN FORTIER, THE AMERICAN ENTERPRISE INSTITUTE,

544

WASHINGTON, D.C.

545

Mr. Fortier. Thank you, Chairman Schumer and Senator Roberts. I commend

546

you on having this hearing today because we have had a silent revolution in voting that

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has taken place over the last 30 years. Thirty years ago, we could look at the States

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and there would be some similarities. Most States would have about five percent

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people voting by absentee. You would have those people with reasons. They would

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be overseas, they would be ill, or they would be out of town on business or some

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personal business.

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And starting in the late 1970s and early 1980s, a number of States started to

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change this, and we have seen a tremendous rise in voting by mail, but I also want to

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highlight a tremendous rise in voting early in person. Both of these phenomena have

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added together, add up to about a third of voters voting before Election Day, a

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tremendous change which has really been State by State.

557

Some States, Oregon, 100 percent, Washington State, nearly there, are voting by

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mail. Some States--New York is now moving in this direction but has traditionally had

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very low rates of absentee voting. Many of the Northeast States still have those rates

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of five percent or less.

561

Some States have moved very heavily to voting early in person but do not do

562

much voting absentee. Texas and Tennessee were the leaders. Georgia and North

563 Carolina also fall into this category. And then there are a number of States who do a
564 lot of both.

565 So I note to you the great variety that is out there in the States, and I think that is
566 some caution to what Congress should weigh in on, whether Congress should put early
567 voting in person, or early voting by mail above other forms of voting.

568 Now, if I were advising you as a State, I do have some reservations about moving
569 towards voting by mail. Of course, it is needed for a certain percentage of voters who
570 cannot make it to the polls, but that does not mean that you could not go to a certain
571 form of convenience voting, and that is voting early in person. And the reason I would
572 recommend that method of voting rather than voting by mail or expanding voting by
573 mail in a significant way is several reasons.

574 One, it is not a secret ballot, a vote by mail. It is needed by some people, but
575 once that ballot has left the polling place, it is in the hands of someone. It is
576 potentially out there for others to see. And while most of us do not have pressures on
577 us as to how to vote, there are some that do. There are vulnerable voters. There are
578 people with prying spouses or bullying employers or who face a certain sort of peer
579 pressure being part of a group, and the fact that the ballot is out there makes it very
580 hard for those people to resist those pressures. If you go to a polling place, you may
581 have all the pressures in the world, but ultimately, you pull the curtain behind you and
582 you vote as you like no matter what your friends, spouse, or peers have told you to do.

583 There are also problems with the chain of custody. Certainly, an absentee

584 ballot or a mail ballot leaves the polling place. It is sent. It is requested. It has to be
585 turned back. And the problems that we have found have been in the fraud area.

586 While I don't think we can prove in any way that they are extensive, they certainly are to
587 do with people intercepting ballots, people requesting ballots for people who are not
588 eligible voters or are not where they are supposed to be. There is an extra opportunity
589 for fraud that does not exist at the polling place.

590 I also think there are some problems with the way ballots are handled, and I
591 want to accept Oregon for this. In many ways, I am a critic of voting by mail, but I think
592 Oregon, when it does voting by mail, does it very well. That is not the case all around
593 the country. There are many States who do not take the same care of checking
594 signatures, of ensuring that there is contact with voters if there are problems.

595 And I point to the Minnesota example, where Minnesota, a contentious recent
596 election, we had problems that both sides argued about, about ballots being not
597 counted that should have been counted or ballots that were counted that didn't meet
598 the requirements, and ultimately also some problems potentially of votes being cast
599 with errors in them which are not able to be corrected on the ballot itself, whereas at a
600 polling place, there are error checking mechanisms in a number of voting systems.

601 You know, my caution on moving towards requiring voting by mail everywhere is
602 that, look, we have a very good other system, voting in person early, and we wouldn't--I
603 am going to speak for Secretary Brown here. I am not sure she would be excited if we
604 passed a bill and said that we should require there be early voting in person everywhere

605 all the time or in an extensive way. I don't think we should impose one or the other.

606 I think the States are making decisions. And I will note, I think that the statistics show

607 that we are moving more in the direction of voting early in person. The recent rise in

608 that has been greater than the other.

609 My last point is that just because I don't think we should ask States to--we

610 shouldn't force States to offer absentee ballots to everyone, we should consider making

611 some of the improvements that are dealing with the tracking, with the signatures and

612 other things that Oregon and other States do well.

613 [The prepared statement of Mr. Fortier inserted into the record]

614 Chairman Schumer. Thank you, Mr. Fortier. You hit the nail on the head

615 exactly at five minutes.

616 So we now go to Mr. Suleman.

617

618 STATEMENT OF ROKEY W. SULEMAN II, EXECUTIVE DIRECTOR, D.C. BOARD OF

619 ELECTIONS AND ETHICS, WASHINGTON, D.C.

620 Mr. Suleman. Thank you, Chairman Schumer and Senator Roberts. Universal

621 access to an absentee ballot is something that should be available to every U.S. citizen.

622 I have been an election official in a State with universal access to an absentee

623 ballot--that would be Ohio, an official in a State that severely restricts absentee ballot

624 access--that would be Virginia, and am currently the Chief Election Official in the District

625 of Columbia, a jurisdiction that is now making the transition from excuse-based

626 absentee to no excuse absentee voting. I can speak with firsthand experience to the
627 administrative difficulty that results from restricting ballot access through the mail.

628 Demands on the lives of voters have grown as our country has grown. We owe
629 it to our citizens to give them as much access to the ballot as they request. No fault
630 absentee voting does just that in a place that is convenient, their home.

631 Some argue that a vote by mail system erodes a community's sense of civic duty,
632 that a ballot received through the mail is equal to junk mail received on a daily basis. I
633 disagree. I believe that voting by mail gives families as much of an opportunity, if not
634 more so, to educate their children about voting. Not every parent has the luxury to
635 have their children tag along to the polls with them on Election Day. With vote by
636 mail, families can sit around the kitchen table and discuss the issues and the candidates.

637 Virginia places significant restrictions on access to an absentee ballot through
638 the mail. A person must meet one of numerous requirements in order to vote
639 absentee either in person or via the mail. A voter must check a box on a form and also
640 give supporting information for their reason. For example, a voter must check
641 "personal business" or "vacation" and then list the place that they are visiting. Failure
642 to list the location results in a mandatory denial of that application.

643 Medical reasons for requesting an absentee ballot through the mail also require
644 supporting information. If a person does not list the nature of their illness on the
645 application, the application must be denied. The medical reason to vote absentee may
646 be very personal and subject the voter to public embarrassment. Absentee

647 applications are records available to inspection by the public. Although there is some
648 thought that the Health Insurance Portability and Accountability Act of 1996, HIPAA,
649 may apply, election officials have received no guidance to how to balance the right to
650 privacy against the freedom of information regarding these documents. We face the
651 prospect of serious litigation in the future if these requirements are still in place.

652 Requiring an excuse to vote absentee also places a significant administrative
653 burden on local election officials. The denial rate in my office in Fairfax, Virginia, for
654 absentee applications was very high in 2008. A significant number of voters check a
655 reason but do not supply the supporting information. My staff has to review each
656 application for completeness. Failure to properly complete the form requires a notice
657 to the voter informing them of the deficiency and supplying a new application. This is
658 all done by hand.

659 During the November 2008 general election season, my former office denied
660 thousands of applications because of these simple failures to supply burdensome
661 information. There were several file drawers filled with applications that were denied.
662 Some voters were denied multiple times before submitting a properly completed
663 application. This took thousands of dollars out of our budget for the increase in man
664 hours, postage, and supplies needed to process these applications. This is a
665 tremendous waste of valuable tax dollars. No excuse access to a ballot through the
666 mail would have saved that office thousands of dollars in processing and overtime costs.

667 Some opponents of no excuse absentee voting by mail claim a person should be

668 able to fill out a form properly and failure to do so should disqualify their vote. I have
669 had to deny applications to former U.S. Congressmen and current U.S. Supreme Court
670 Justices because of failure to supply supporting information. If these educated folks
671 make mistakes, imagine the mistakes made by a 90-year-old voter that has difficulty
672 reading and writing.

673 The transition from excuse-based absentee voting to no excuse absentee voting
674 in Ohio caused no problems or increased fraud. As a matter of fact, in today's
675 Cleveland Plain Dealer, they indicate that the majority of votes in Cuyahoga County in
676 yesterday's primary came in through the mail.

677 It is my professional opinion that increased access to ballots through the mail
678 does not lead to an increase in voter fraud. The numbers I have seen just do not
679 support the assertion. What universal access through the mail does is give a voter
680 another option in casting a ballot, an option that more and more voters across the
681 country desire.

682 There are other benefits to vote by mail. Election officials will also be able to
683 take advantage of technology to let a voter know where their ballot is. By placing bar
684 codes on both the original and return envelope, my office in the District will have the
685 ability to tell every absentee voter the status of their ballot on our website up to the
686 point the ballot is on the vehicle of their postal carrier. While we are implementing
687 this technology to comply with the MOVE Act, this process will be easily extended to all
688 vote by mail voters at nearly no cost. This process is expected to significantly reduce

689 the number of "where is my ballot" calls to the office, which in turn will reduce staffing
690 costs. The combination of convenience and technology will be a tremendous benefit
691 for the voters in the District.

692 It is my belief the District will start to see such a shift to early and no fault
693 absentee voting that we will be able to combine precincts. This will provide my office
694 with thousands of dollars in savings from poll worker reduction, reduced training costs,
695 fewer polling location rental fees, and less overtime.

696 No fault absentee voting is a concept whose time has arrived. Voters like the
697 ease of use. Election officials as well as the funding authorities appreciate savings
698 realized in the elimination of polling locations. This is a good government bill. This
699 bill will save taxpayer money and provide greater access to our government. It is a bill
700 whose time has arrived. Thank you very much.

701 [The prepared statement of Mr. Suleman follows:]

702 Chairman Schumer. Thank you. And again, I want to thank our witnesses for
703 observing the time limit.

704 The first question I have is for Secretary Brown and Mr. Suleman in particular,
705 education, and particularly the experience with Oregon. When Senator Wyden
706 rehearsed the history, it was sort of gradual. It started in local elections. I guess it
707 wasn't mandatory. You could go to the polls, et cetera. How long did it take for
708 Oregon voters to become familiar with the process? How do you educate new voters?
709 You have an influx of many citizens from other States who come to Oregon. Tell us a

710 little bit about that.

711 Ms. Brown. Mr. Chair, thank you for the question. As Senator Wyden
712 suggested, the process to moving to vote by mail in Oregon was gradual. A Republican
713 Secretary of State passed legislation in 1981 to allow for local elections, and it wasn't
714 until the voter initiative passed in 1998 that we went to full vote by mail. That being
715 said, basically, no one under the age of 30 has ever voted in a polling place in Oregon, so
716 it certainly has been a gradual transition.

717 I think the beauty of Senator Wyden's bill is it doesn't force the States to do vote
718 by mail. It allows the voters to have the choice of voting by mail, and it is really an
719 expansion. My understanding is that all the States have access to some type of
720 absentee voting. So it really just expands the systems that the States already have in
721 place.

722 In terms of education, I am in the schools on a regular basis working to educate
723 young Oregonians that we vote by mail and how we vote by mail. And we, frankly,
724 have used our Federal Help America Vote Act dollars to educate voters about the voting
725 process in Oregon.

726 Chairman Schumer. Mr. Suleman, you mentioned Ohio. That was very
727 interesting, that in the primary, a majority of votes were cast by mail in Cuyahoga
728 County. How is the process going there with educating voters, voters adapting, et
729 cetera?

730 Mr. Suleman. The election offices in Cuyahoga County and Franklin County,

731 Ohio, the two largest jurisdictions in Ohio, are very proactive and they send out
732 applications to all of the voters to fill out and submit ballots and it has worked very well
733 for them.

734 My experience in my county in Ohio was we did a limited approach because we
735 didn't have the local resources to send out applications to all of our voters. However,
736 we knew that there was going to be difficulty with the applications, so we sent
737 out--inside the application itself, we sent a form that described actually how to fill out
738 the application so when the ballot came back there weren't any mistakes on the ballot
739 so we could pass that forward.

740 Each county has taken it upon themselves to educate the voters a little
741 differently, but it has proven to be a great success.

742 Chairman Schumer. And it is working?

743 Mr. Suleman. It is working.

744 Chairman Schumer. Okay. Secretary Brown, Mr. Fortier mentioned some of
745 the complaints with this process. We have talked about the fraud, so I am going to
746 leave Senator Wyden's comments on that in Oregon. But what about this idea that
747 you lose some of your privacy from, I think his words were, prying spouses and
748 employers who were trying to pressure people, or something like that. Do you get
749 many complaints about that from Oregon voters?

750 Ms. Brown. Mr. Chair, actually, we have had no complaints regarding coercion
751 amongst spouses or partners in terms of coercion around the ballot, and we have

752 actually done some research. The prior administration reviewed divorce petitions
753 looking for allegations regarding coercion between spouses--

754 Chairman Schumer. No divorces because of election differences?

755 Ms. Brown. Correct. Correct. But the other thing I would add, Mr. Chair, is
756 that--

757 Chairman Schumer. It would be a pretty fragile marriage.

758 [Laughter.]

759 Ms. Brown. I have been very involved in the domestic violence community in
760 my work in the legislature and I have never heard any complaints about this particular
761 issue. So we--

762 Chairman Schumer. What about with employers?

763 Ms. Brown. Uh--

764 Chairman Schumer. No, but employers would say, hey, I want you to vote
765 Republican or Democrat and let us see your ballot.

766 Ms. Brown. Mr. Chair, we have not heard any complaints about that. The
767 legislature recently passed legislation in Oregon regarding, shall we say, meetings with
768 employers that doesn't require employees to attend meetings. But no, I haven't had
769 any complaints regarding employers forcing them to turn in the ballot.

770 Chairman Schumer. Mr. Fortier, when you brought these up, is that
771 speculative, hypothetical, or do you know of instances and can you mention a few to us?

772 Mr. Fortier. Well, if I could just turn back in a way to the history, we actually

773 had two reform movements, one right before the other, a reform movement at the end
774 of the 19th century which put in the privacy of the ballot, the Australian ballot, and
775 shortly thereafter, we had a reform that States started introducing absentee ballots.
776 And some of the reasons for these requirements to go to a notary or provide a reason to
777 vote absentee were because State Constitutions had enshrined the idea of privacy of
778 the ballot and they wanted to balance these things.

779 I am not advocating going back to a notary public, which I will note actually I did
780 have to go to the first time I voted absentee, but you can see the reason for wanting to
781 do so, that you go to a notary public, you show a blank ballot, you then are standing
782 over there--

783 Chairman Schumer. But any specific instances here?

784 Mr. Fortier. Well, I mean, the reasons at the time, I will just say, of course,
785 were worse than we would expect today with political machines which had walked into
786 the ballot box with a color-coded ballot. You knew how you voted.

787 I just think you are unlikely to find the subtly pressured voter or the voter who is
788 under some pressure to come forward and say, look, I have these problems. They are
789 vulnerable voters who potentially have someone giving them a hard time and might
790 actually be able to see the ballot. I mean, certainly you can pay someone to see their
791 ballot and turn it in, as well. It is not prohibited, or there is no way to ultimately get
792 around that.

793 I applaud Oregon for doing lots of things to stop that, and I don't think we should

794 get rid of absentee ballots. We need them for some people. But in many ways, the
795 polling places provide these protections that that sort of voting doesn't. And when a
796 State like Texas or Tennessee wants to do a lot of convenience voting, a lot of voting
797 early at polling places and say voting by mail is for only people who really need it, I think
798 that is a good choice for those States to make.

799 Chairman Schumer. Okay. And one final question for all three witnesses.
800 Could some States' motivation here be that they don't want some people to vote or
801 certain people to vote or make it more difficult? Is it that States that had traditionally
802 denied voting rights to certain groups have tougher laws still to this day for any
803 particular reason? Any of the panel on that. Or is that just gone, thankfully?

804 Mr. Suleman. No. Quite honestly, in my professional opinion, that is the
805 reason why the extreme absentee restriction to vote by mail exists in Virginia. I
806 believe that they just do not want to open up access to the ballot to folks.

807 Chairman Schumer. Mr. Fortier, you disagree with that?

808 Mr. Fortier. Yes, I do. I mean, I think most of the States that still have these
809 restrictions are actually in the Northeast, so some of those historical reasons may not be
810 quite there. And, look, many of these reasons, we may want to revisit them at a State
811 level and say, well, maybe this particular provision for providing a reason isn't what we
812 want, or maybe we may need to make it easier. But I am not sure that the main
813 reason is to keep turnout down.

814 We didn't really talk about turnout, and I think there are some real problems

815 with the claim that voting by mail increases turnout. Most academic research has
816 actually shown that it does not. There are some contradictory studies, but there are
817 certainly a number of studies that show a negative result. So I think the consensus is
818 that it doesn't increase turnout by itself, nor does voting early in person. It is
819 convenient. There are some benefits to it. But it is not something that is an
820 automatic turnout increaser.

821 Chairman Schumer. Thank you all.

822 Senator Roberts?

823 Senator Roberts. Well, thank you all. I truly appreciate your taking the time.
824 I know you are very busy and it has been very interesting.

825 We had a hearing on voter registration issues last March and one of the
826 witnesses at that hearing submitted a study showing turnout increased nationwide over
827 a period, I think that was highlighted by Ms. Brown when she said increased six percent
828 in your State in the last three Presidential elections, and then I think there were similar
829 numbers, too, in other States that had a similar system.

830 But according to the Center for the Study of the American Electorate--I don't
831 know who that is, by the way, but it sounds pretty good--average turnout nationwide
832 for 2000, 2004, and 2008 Presidential elections was 59.26, almost 60 percent, while
833 average turnout for 1988, 1992, and 1996--it occurs to me that is when I ran--was 54.3
834 percent, about five percent below, actually 4.96. So the turnout increase over that
835 period was pretty close to the national average.

836 Do you have any comments on that, Ms. Brown, and also to Mr. Fortier?

837 Ms. Brown. Mr. Chair, Senator Roberts, what I can relay to you is that Oregon's
838 turnout amongst registered voters has been in the top ten in the nation during the past
839 couple of Presidentials. In terms of non-registered voters, we are, frankly, in the
840 middle of the pack, and that is why we moved to--in March, we moved to an online
841 voter registration system. We used our Federal Help America Vote Act dollars to move
842 to an online system to make it easier and more accessible for Oregonians to register
843 online if they have a State ID or driver's license. So we are really working hard on the
844 registration end.

845 Senator Roberts. Mr. Fortier?

846 Mr. Fortier. I will just say, I want to commend Oregon because Oregon does
847 have high voter turnout, but it has had high voter turnout for quite a long time, before it
848 had all vote by mail elections. So I think that in itself has not been the reason for its
849 high turnout.

850 There are a number of studies, I would point to some in California, where there
851 are some districts where people are required to vote by mail because the number of
852 people who have the same ballot is quite small, and a number of academics have
853 studied those districts and found actually a negative result. I don't claim that that is
854 the case, but the range of results is from some small negatives to some small positives.

855 The one exception, I will say, is for local elections, small really low turnout local
856 elections, local referenda. There, we do see some significant turnout. But for any

857 major Statewide race or even local State legislative or for House of Representatives,
858 those races, we don't see an increase in turnout.

859 Senator Roberts. I am going to refer to the Dark Ages when I attended the
860 Kansas State University, the home of the ever-optimistic and fighting Wildcats, and we
861 had two political science professors that were pretty famous, or infamous. One was
862 trying to lower the voting age to 16. This is before even 18 and if you are old enough
863 to fight, you are old enough to vote, which I always thought was a rather odd
864 connection, but I can understand it.

865 And another political science professor who, I would say to the Chairman, had a
866 very unique version. He said a higher voter turnout isn't necessarily good, that the old
867 expression, it doesn't matter who you vote for, just make sure you vote, if you really
868 look at that, that is a pretty stupid observation. I mean, that is you would just vote for
869 anybody, just vote. Now, that happens in this country, I understand that, for various
870 reasons. And so he thought that the best election would probably be about a 20
871 percent turnout and everybody else is playing golf and things were getting along just
872 fine. I happen to also harken back, that was the Eisenhower years and--

873 Chairman Schumer. You would have very few municipal golf courses.

874 Senator Roberts. That is true. We would have very few golf courses.

875 Actually, we have a lot of pastures out in Kansas that would work out.

876 [Laughter.]

877 Senator Roberts. But Ike was President. It was eight years of peace and

878 prosperity. People seemed to be less interested in dramatic legislation, et cetera, et
879 cetera.

880 But at any rate, I am not asking you to comment on that except that an informed
881 vote, I think, is probably the most important thing. But Ms. Brown, you have raised
882 something that really makes my eyebrows go up. You argue that in your State, the
883 civic ritual of voting at the polling place has been replaced with a new civic tradition of
884 families getting together to discuss and vote their ballots together.

885 I am thinking of my own family and then I am also thinking of maybe a family
886 reunion in which this could take place. I shudder at that thought, knowing various
887 members of my family--extended.

888 [Laughter.]

889 Senator Roberts. I have one son and three daughters--pardon me, two
890 daughters. I am into grandchildren now, but that is another thing. I ran for the
891 Senate in 1996. My one daughter was in school at the University of Kansas. I don't
892 know how that happened, but anyway, she enrolled in that school and completed her
893 degree. At any rate, the other daughter and the other son did precisely what their
894 Great-Grandfather and their Grandfather and their father had recommended in regards
895 to voting, along with the various mothers.

896 The other daughter, however, decided that she marched to a different drum. I
897 can remember the case of where her brother put one of my bumper stickers on her car,
898 which I thought would be an understandable thing. She immediately took it off. She

899 didn't put my opponent's bumper sticker up there. To date, I do not know if she voted
900 for me in 1996, and I have never asked her how she voted in this last election.

901 But I can see--I am not too sure that this is a civic ritual in regards to our family.
902 It is not that we do not have meaningful dialogue about the issues of the day and
903 various candidates and their qualifications, but at any rate, I don't know. Isn't the key
904 difference that while both systems allow families to sit around and discuss the
905 candidates, only one assures a secret ballot as opposed to everybody signing at the
906 appropriate time and everybody pretty much knowing how everybody voted, which I am
907 not sure is a good thing?

908 Ms. Brown. Mr. Chair, Senator Roberts, I have a number of responses and I will
909 try and be responsive to your question, but--

910 Senator Roberts. Well, help me with my daughter first.

911 [Laughter.]

912 Ms. Brown. Okay. Well, I will say, when I first ran for the legislature, I ended
913 up running against a three-term incumbent and was outspent two-to-one. I won that
914 race by seven votes.

915 Senator Roberts. Wow.

916 Ms. Brown. And one of the reasons I ran to become Secretary of State is
917 because I believe that every vote really does matter and needs to be counted.

918 In terms of the power differential, and Chair Schumer raised this earlier, I think
919 that is the beauty of the Wyden-Davis approach, and that is it allows the individual voter

920 to determine whether he or she wants to do the vote by mail. If someone wants to
921 retain the polling place system and go to the polls, they can do that. That is the beauty
922 of the Wyden approach. It gives the voter the choice.

923 In terms of the family conversations, the wonderful thing that happens in
924 Oregon is that our voters' pamphlets come out about three weeks ahead of time, so the
925 photos are there, the statements are there from the candidates. The ballots come
926 about a half-a-week later. It gives people an opportunity to discuss what is on the
927 ballot. We have a complicated ballot in Oregon normally because we have an initiative
928 process to further complicate everything, and so normally, there are about five to eight
929 initiatives on the ballot, as well.

930 So people discuss these issues in neighborhood associations, in churches, in
931 libraries. Certainly, there is discussion around family dining room tables. I know that
932 folks try to influence people, but to my knowledge, there is no coercion happening.
933 We haven't had any evidence of coercion.

934 And I don't know what I can do to help you with your daughter other than to
935 share with her my story of seven votes and that we would hate it if you were to lose.

936 Senator Roberts. Well, you will probably agree with her. That is the thing
937 that--

938 [Laughter.]

939 Senator Roberts. One other thing. I am way over time here, and I apologize
940 to the Chairman and everybody else. This is probably not really pertinent, but it does

941 make me stop and think a minute. I was editor and publisher of a weekly newspaper in
942 Phoenix during the explosion of Phoenix, and it is still exploding, in more ways than one,
943 but at any rate, it was on the West side of Phoenix and obviously the home of Barry
944 Goldwater. And I actually traveled with the Senator and had great respect for him, and
945 then obviously it was the Johnson-Goldwater election. In that newspaper, I
946 editorialized that perhaps the experience of Johnson weighed heavily in favor of voting
947 for him and wrote that editorial and voted accordingly.

948 My father, who is the former Republican National Chairman under Eisenhower,
949 did not get a copy of the paper--thank God--until about two weeks later. Coercion?
950 You have no idea about the coercion that followed for years afterwards. I have never
951 made that mistake again in regards to at least a decision like that, either that or I just
952 simply, might add, just sort of took it for granted that I voted the way that he thought
953 that I should vote. But anyway, I would assume that not all families are like mine.

954 I want to thank you all very much and thank you for your personal examples and
955 your expertise. I think it has been a good hearing, Mr. Chairman.

956 Chairman Schumer. Well, thank you, Senator Roberts, and you helped make it
957 a good hearing, as did our three witnesses.

958 I would say to you, I just had a little experience. I ran for the Assembly at age
959 23. My parents, particularly my mother, thought I should go practice law and make
960 some money and she told many of her friends not to vote for me so I would get this
961 dumb idea of being a politician from my thick head. So you are not alone.

962 [Laughter.]

963 Chairman Schumer. Anyway, thank you all for coming.

964 The hearing is adjourned.

965 [Whereupon, at 11:17 a.m., the committee was adjourned.]